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10/747,646

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Jasvantrai Shah

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EXAMINER

WOLDEKIDAN, HIBRET ASNAKE

ART UNIT

PAPER NUMBER

2613

NOTIFICATION DATE

DELIVERY MODE

03/03/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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|------------------------------|---|---|--|
| Office Action Summary | Application No. 10/747,646 | Applicant(s) SHAH, JASVANTRAI | |
| | Examiner Hibret A. Woldekidan | Art Unit 2613 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Examiner acknowledges receipt of Applicant's Amendments, remarks, arguments received on 11/14/08. Applicant's arguments have been considered but are not persuasive.

Applicant's argument:

1. Applicant argued on Page 8 of the remark, "...Erickson et al. do not disclose or suggest causing a working port of the OXC to directly connect to a protection port of the router..."

2. Applicant argued on Page 11 of the remark, "...Chiu et al. does not disclose or suggest that a working port is connected to the router in response to a failure of the primary router, as required by claim 11..."

Examiner's Response:

1. Regarding the first argument, Examiner respectfully disagree because the argued limitation, "...a working port of the OXC to directly connect to a protection port of the router...", is not supported by the specification. In fig. 3c, the working port(215) of the OXC(115) is not directly connected to the protection port of the router because it has to pass through the output port of the OXC(115). Hence the reference, Erickson et al., still reads on the claims and the amendments to the claims are not supported by the specification.

Further, the signal entering and exiting point of the OXC can be considered as a port. For example, Pedersen et al(US 2003/0067655) teaches the signal enter point of the OXC(100) is called an input port(101) and the signal exiting point of the OXC is called an output port(103)(See fig. 11 Paragraph 45). Therefore signal entering or exiting point of the OXC can be considered as an input or output port respectively.

Therefore the previous rejection is maintained and the new limitation "...directly..." has no weight.

2. Applicant argued on Page 11 of the remark, "...Chiu et al. does not disclose or suggest that a working port is connected to the router in response to a failure of the primary router, as required by claim 11..."

Examiner respectfully disagree because Chiu indeed shows a working port is connected to a backup router in case of a failure with a primary router. As explained in Paragraph 45 of Chiu when the working route(100B₁ of fig. 3) failed, a new connection setup with the backup router which is (100B₂ of fig. 3) using the same port of the OXC_B which used to connect to the failed working router(100B₁).

Claim Rejections - 35 USC § 112

Claims 1-10,15-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The independent claims, 1,6 and 15 state, "...the working port of the OXC is directly connected to the protection port of the

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router...” The term “directly” is not stated in the specification. The specification states the working port of the OXC is connect to a protection port of the router. The specification does not state the working port of the OXC is directly connected to the protection port of the router. See Fig 3A-C, connection between ports is through the output ports of the OXC. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A Person shall be entitled to a patent unless-

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1-10 and 15-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Erickson et al (6,882,765).

Considering claim 1, Erickson discloses in a network including a router and an optical cross-connect system (OXC) (**See Col. 19 lines 1-6, fig. 17 i.e. a network**

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comprising a router (1502) and OXC(1504)), a method for responding to a failure (See Col. 23 lines 1-5 and lines 28-41, fig. 17b i.e. a method of responding to a failure), the method comprising: detecting the failure in the router (See Col. 22 lines 64-67, fig. 17b i.e. detecting a failure in the router(1502) by a port 1521A); sending a signal from the router to the OXC (See Col. 23 lines 1-8, fig. 17b i.e. after the router(1502) detects a failure in one of the links(1702), the router(1502) sends a signal to the oxc(1504)), where the signal indicates the failure (See Col. 23 lines 1-8 and lines 28-41, fig. 17b i.e. sending failure indicating signal from the router(1502) to the oxc(1504)); causing a working port of the OXC to connect to a protection port of the router in response to detection of the signal(See Col. 23 lines 28-41, fig. 17b i.e. fig. 17 b illustrates that after the router(1502) detects a failure in one of the links(1702), the router(1502) sends a signal to the OXC(1504), as a result, the OXC working port(1541B) connects to the router protection port(1522)); and transmitting data from the router to the OXC via the protection port(See Col. 23 lines 34-41, fig. 17b i.e. fig. 17 the OXC working port(1541B) connects to the router protection port(1522) to transmit signal via the protection port).

Considering claim 2 Erickson discloses the method of claim 1, where the sending further comprises: of sending an in-band signal to the OXC **(See abstract i.e. communicating in-band signal).**

Considering claim 3 Erickson discloses the method of claim 2, where the sending an in-band signal to the OXC further comprises: sending a Synchronous Optical

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Network (SONET) signal to the OXC (**See abstract, Col. 20 lines 5-10 i.e. Communicating SONET channels with the OXC).**

Considering claim 4 Erickson discloses, the method of claim 1, where the sending further comprises: sending an out-of-band signal to the OXC (**See Abstract, Col. 14 line 1-6 i.e. OXC communicates using out-of-band signaling).**

Considering claim 5 Erickson discloses, the method of claim 4, where the sending an out-of-band signal comprises: the step of addressing the out-of-band signal to an Internet Protocol address associated with the OXC (**See Col. 19 lines 1-9 i.e. internet protocol associated with OXC).**

Considering claim 6 Erickson discloses, a method for responding to a failure in a network including a router and an optical cross-connect system (OXC) (**See Col. 23 lines 28-41 i.e. a method of responding to a failure in a network including a router and OXC**), the method comprising: receiving a signal at the OXC from the router (**See Col. 23 lines 1-5 i.e. after the router(1502) detects a failure in one of the links(1702), the router(1502) sends a signal to the oxc(1504))**, the signal indicating a failure of a working port in the router (**See Col. 23 lines 1-5 and lines 28-30, fig. 17B i.e. a failure indication signal sent from the router(1502) to the oxc(1504))**; and connecting a protection port of the router to a working port of the OXC in response to receiving the signal (**See Col. 23 lines 1-5 and lines 28-41, fig. 17b i.e. after the router(1502) detects a failure in one of the links(1702), the router(1502) sends a signal to the oxc(1504). As a result, the OXC working port(1541B) connects to the router(1502) protection port(1522)).**

Considering claim 7 Erickson discloses the method of claim 6, where the receiving further comprises: receiving an in-band signal at the OXC (**See Col. 14 lines 12-16 i.e. communicating in-band signals at the OXC**).

Considering claim 8 Erickson discloses the method of claim 7, where the receiving an in-band signal at the OXC comprises: receiving a Synchronous Optical Network (SONET) signal at the OXC (**See abstract, Col. 20 lines 5-10 i.e. Communicating SONET channels with the OXC**).

Considering claim 9 Erickson discloses the method of claim 6, where the receiving further comprises: receiving an out-of-band signal at the OXC (**See Abstract, Col. 14 line 1-6 i.e. OXC communicates using out-of-band signaling**).

Considering claim 10 Erickson discloses, the method of claim 9, where the receiving an out-of-band signal further comprises: addressing the out-of-band signal to an Internet Protocol address associated with the OXC (**See Col. 19 line 1-9 i.e. internet protocol associated with OXC**).

Considering claim 15, Erickson discloses a communications network for transmitting data (**See fig. 7 i.e. optical network for transmitting data**), the communication network comprising: a router for receiving the data from a terminal (**See Col 19 lines 1-7 a router for receiving a data from other units**), the router comprising: a working port for receiving the data from the terminal (**See Col. 19 lines 5-6, Col. 20 lines 22-26, fig. 17B i.e. working port(1521) in the router(1502)**); and a protection port for receiving the data from the terminal in response to a failure of the working unit or path(**See fig. 17b, Col. 23 lines 34-40 i.e. protection port(1522) for**

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receiving the data in response to a failure in the working unit or path(1702)); and
an optical cross-connect system (OXC) for receiving the data from the router **(See Col. 19 lines 1-7, fig. 15 elements 1504 i.e. OXC for receiving data from the router)**, the optical cross-connect system comprising a working port **(See fig. 17B i.e. OXC comprising working port(1541B))**, where the working port of the OXC is connected to the protection port of the router in response to a signal received from the router indicating the failure of the working port of the router **(See Col. 23 lines 28-41, fig. 17b i.e. fig. 17 b illustrates that after the router(1502) detects a failure in one of the links(1702), the router(1502) sends a signal to the OXC(1504), as a result, the OXC working port(1541B) connects to the router protection port(1522))**.

Considering Claim 16 Erickson discloses the communications network of claim 15, where the router transmits a signal indicating the failure to the OXC, the signal causing the OXC to connect the protection port to the working port of the OXC **(See Col. 23 line 6-27, fig. 15 i.e. router transmit signal incase of a failure)**.

Considering claim 17 Erickson disclose, the communications network of claim 16, where the signal is an in-band signal **(See abstract i.e. in-band signal)**

Considering claim 18 Erickson disclose, the communications network of claim 17, where the in-band signal is a Synchronous Optical Network (SONET) signal **(See Col. 20 lines 5-10 i.e. SONET channels)**

Considering claim 19 Erickson discloses the communications network of claim 16, where the signal is an out-of-band signal **(See Abstract, Col. 2 lines 63-67 and Col. 3 lines 1-3, Col. 16 i.e. an out-of-band signal)**.

Considering claim 20 Erickson discloses, the communications network of claim 19, where the out-of-band signal is addressed to an Internet Protocol address associated with the OXC (**See Col. 19 lines 1-9 i.e. internet protocol associated with OXC**).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chiu et al (US 2002/0063916) in view of Pan (7,274,869)

Considering claim 11, Chiu discloses an optical cross-connect system (**See fig. 3 i.e. fig. 3 illustrates that an OXC(OXC_B) connecting with a working router(100_{B1}) and a protection router(100_{B2}). Since the OXC connected with the working router and a spare router, the OXC has a protection port and a working port**) comprising: a spare port for transmitting data from a router (**See Paragraph 47,45, fig. 3,6 i.e. fig. 3 illustrates that an OXC(OXC_B) communicating with a working router(100_{B1}) and a redundant router(100_{B2}) showing the OXC(OXC_B) has a protection port for replacing a failed working router(100_{B1}) with a protection router(100_{B2})); and a working port for transmitting data from a primary router (See Paragraph 38,47,45, fig. 3,6 i.e. fig. 3 illustrates that an OXC(OXC_B) communicating with a working router(100_{B1}) for transmitting data from a router**), where the working port is

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connected to the router in response to a failure of the primary router(See Paragraph 47, fig. 3,6 i.e. fig. 3 illustrates that the OXC(OXC_B) for communicating with a redundant or protection router(100_{B2}) incase of a failure with a working router(100_{B1})).

Chiu does not specifically disclose transmitting a low priority data using a spare port and transmitting a high priority data using a working port.

Pan teaches transmitting low priority data using a spare port and transmitting high priority data using a working port (See Col. 15 lines 4-8 and lines 24-27 i.e. primary path for high priority data and alternative or spare path for non priority data).

It would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Chiu, and transmit a low priority data using a spare port and a high priority data using a working port, as taught by Pan, thus providing an efficient data transmission system by prioritizing data, as discussed by Pan (Col. 2 lines 32-35 and Col. 3 lines 38-41).

3. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiu et al (US 2002/0063916) in view of Pan (7,274,869) further in view of Erickson et al (6,882,765).

Considering claim 12, Chiu and Pan disclose the optical cross-connection system of claim 11, where the working port is connected to the router in response to receiving a signal from the router (See Paragraph 17,45, fig. 3,6 i.e. fig. 3 illustrates that an

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OXC(OXC_B) communicating with a working router(100_{B1}) for transmitting data from the router).

Chiu and Pan do not specifically disclose OXC working port is connected to the router in response to receiving an in-band signal from the router.

Erickson teaches the working port is connected to the router in response to receiving an in-band signal from the router. **(See abstract, Col. 23 line 17-27, fig. 17B i.e. in-band signaling between the working port of the OXC and router).**

It would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Chiu and Pan, and OXC working port to be connected to the router in response to receiving an in-band signal from the router, as taught by Erickson, thus allowing a means of minimizing the time to customer service interruption during switching from the failed port to the protection port by having both ports in the same unit, as discussed by Erickson **(Col. 2 line 63-Col. 3 line 1)**.

Considering claim 13, Chiu and Pan do not specifically disclose the optical cross connection system of claim 12, where the working port is connected to the router in response to receiving a Synchronous Optical Network (SONET) signal from the router

Erickson teaches the optical cross connection system of claim 12, where the working port is connected to the router in response to receiving a Synchronous Optical Network (SONET) signal from the router **(See Col. 19 lines 1-7, Col. 23 line 6-27, fig. 15 i.e. working port is connected to a router in case of a failure in primary path).**

It would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Chiu and Pan, and the OXC working port to be

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connected to the router in response to receiving a Synchronous Optical Network (SONET) signal from the router for the reason discussed in claim 12

Considering claim 14, Chiu and Pan do not specifically disclose the optical cross-connection system of claim 11, where the working port is connected to the router in response to receiving an out-of-band signal from the router.

Erickson teaches the optical cross-connection system of claim 11, where the working port is connected to the router in response to receiving an out-of-band signal from the router **(See Col. 2 lines 63-67 and Col. 3 lines 1-3, Col. 16 lines 28-46 i.e. working port is connected to a router in response to an out of bound signal).**

It would have been obvious to one skilled in the art at the time the invention was made to modify the invention of Chiu and Pan, and the working port is connected to the router in response to receiving an out-of-band signal from the router for the reason discussed in claim 12.

Conclusions

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HIBRET A. WOLDEKIDAN whose telephone number is (571)270-5145. The examiner can normally be reached on Monday to Thursday from 8:00 a.m. - 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on (571)272-3078 . The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. A. W./

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Examiner, Art Unit 2613

/Kenneth N Vanderpuye/

Supervisory Patent Examiner, Art Unit 2613

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